



Docket No. 1539.1016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Koji YOSHIDA, et al.

Group Art Unit: 2125

Serial No: 09/900,016

Examiner: Kidest Bahta

Filed: July 9, 2003

For: METHOD OF DETERMINING MOVEMENT SEQUENCE, ALIGNMENT APPARATUS, METHOD AND APPARATUS OF DESIGNING OPTICAL SYSTEM, AND MEDIUM IN WHICH PROGRAM REALIZING THE DESIGNING METHOD

COMMENTS REGARDING STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop Issue Fee
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

The Examiner provided a Statement of Reasons for Allowance in the Notice of Allowability mailed August 18, 2003 and in the Notice of Allowability mailed October 18, 2004, in which the Examiner indicated that claims 1, 12 and 15 were allowed based on certain features that included, among others, "an arithmetic section," "a measurement order of a plurality of alignment marks" and "selecting a movement operation between the plurality of alignment marks." However, it is noted that the methods recited in claims 1, 12 and 15 do not recite an arithmetic section. In addition, at least claim 1 does not recite alignment marks and instead recites "each indicating a measurement order of said plurality of measurement target areas" and "selecting a movement sequence that can accomplish a movement operation between said plurality of target areas in the shortest time."

In addition, the Examiner indicated that claims 42, 49-51, 55, 61, 62, and 64 were allowed based on certain features that included, among others, "a determining device which determines an order for positioning each of the areas to be detected in the predetermined detecting filed by using at least a nearest neighbor method, and Lin and Kernighan's approach, a K-OPT method, an evolutionary computation method and a combination thereof." However, the methods recited in at least claims 42, and 49-51 do not recite a determining device and/or a nearest neighbor method. Moreover, at least claims 51 and 62 do not recite such a feature.

Instead, claim 51 recites "a first step of detecting at least one of a plurality of first measurement marks provided associated with a predetermined shot area out of the shot areas; and a second step of detecting at least one of a plurality of second measurement marks provided associated with a shot area different from the predetermined shot area, before detecting all of the first measurement marks." Further, claim 62 recites "a detecting device that detects at least one of a plurality of first measurement marks provided associated with a predetermined shot area out of the shot areas; and a control device, electrically connected to said detecting device, that controls said detecting device to detect at least one of a plurality of second measurement marks associated with a shot area different from the predetermined shot area, before detecting all of the first measurement marks."

As specified in MPEP 1302.14, "care must be taken to ensure that such reasons are accurate, precise, and do not place unwarranted interpretations, whether broad or narrow, upon the claims." It is submitted that the Examiner's Statement does not meet these standards and, instead, raises "possible misinterpretations... and possible estoppel effects" (MPEP 1302.14) and, accordingly, should be disregarded.

It further is submitted that the claims noted above are not constrained by such limitations as characterized by the Examiner and that the claims speak for themselves as to what features are included therein and are their own best evidence as to the reasons for allowance of same.

Respectfully submitted,

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January 12, 2005